

1914

# TAXATION OF PUBLIC PROPERTY

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## PUBLIC UTILITIES IN MUNICIPALITIES.

Senate Constitutional Amendment 53 amending section 19 of article XI of constitution.

Authorizes any municipal corporation to acquire and operate public utilities; to grant franchises to operate same under regulations prescribed by its organic law or otherwise by law; but eliminates from present section provisions authorizing municipal government to regulate charges for services under such franchises; and authorizes municipal corporation to furnish the product or service of public utility operated by it to users beyond its limits, to other municipalities, and to inhabitants thereof without consent of such municipalities.

Senate Constitutional Amendment No. 53—A resolution proposing to the people of the State of California an amendment to section nineteen of article XI of the Constitution of the State of California, relating to the operation of public utilities by municipal corporations.

The legislature of the State of California, at its regular session commencing on the sixth day of January, 1913, two thirds of the members elected to each of the two houses of said legislature voting in favor thereof, hereby proposes that section 19 of article XI of the Constitution of the State of California be amended to read as follows:

### PROPOSED LAW.

Section 19. Any municipal corporation shall have power to acquire by purchase, lease, condemnation or otherwise, in whole or in part, or to construct, and to own, maintain, equip and operate public utilities; and to grant franchises to persons, firms or private corporations to establish, equip, maintain and operate public utilities, upon such conditions and under such regulations as may be prescribed under the organic law of such municipality or otherwise by law. Any municipal corporation may furnish the product or service of any public utility conducted or operated by it to other municipal corporations and the inhabitants thereof, and to consumers and users outside of its limits.

Section 19, article XI, proposed to be amended, now reads as follows:

### EXISTING LAW.

Section 19. Any municipal corporation may establish and operate public works for supplying its inhabitants with light, water, power, heat, transportation, telephone service or other means of communication. Such works may be acquired

by original construction or by the purchase of existing works, including their franchises, or both. Persons or corporations may establish and operate works for supplying the inhabitants with such services upon such conditions and under such regulations as the municipality may prescribe under its organic law, on condition that the municipal government shall have the right to regulate the charges thereof. A municipal corporation may furnish such services to inhabitants outside its boundaries; provided, that it shall not furnish any service to the inhabitants of any other municipality owning or operating works supplying the same service to such inhabitants, without the consent of such other municipality, expressed by ordinance.

### ARGUMENT IN FAVOR OF SENATE CONSTITUTIONAL AMENDMENT NO. 53.

This amendment to article XI of the state constitution simply enlarges the powers of municipal corporations respecting their ownership of public utilities. This amendment extends their powers, permitting them to acquire any public utility or service instead of limiting the right to acquire a few specified kinds of service. Under the proposed amendment, municipalities can acquire, by original construction, purchase, lease or condemnation, works or plants supplying water, gas, electricity, heat, illumination, power, refrigeration, with transportation, telephone service, or any other public utility.

The old section was too limited in its powers, and therefore should be broadened, which the proposed amendment contemplates.

A. H. BARNES,  
State Senator Fifteenth District.

## TAXATION OF PUBLIC PROPERTY.

Assembly Constitutional Amendment 6 amending section 1 of article XIII of constitution.

Present section unchanged but proviso added declaring taxable all lands and improvements thereon owned beyond its limits by a county or municipal corporation, if taxable at the time acquired by it; exempting improvements constructed by such owner upon any of its lands; and declaring all such taxable property assessable by assessor of county or municipal corporation where situated, subject to review and adjustment by state board of equalization.

Assembly Constitutional Amendment No. 6, a resolution to propose to the people of the State of California an amendment of the constitution of the state by amending section one of article thirteen thereof relating to revenue and taxation.

The legislature of the State of California at its fortieth regular session, commencing on the sixth day of January, nineteen hundred thirteen, two thirds of all the members elected to each of the houses of said legislature voting in favor thereof, hereby proposes to the qualified electors of the State of California that section one of article thirteen of the Constitution of the State of California be amended to read as follows:

### PROPOSED LAW.

Section 1. All property in the state except as otherwise in this constitution provided, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascer-

tained as provided by law, or as hereinafter provided. The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership; provided, that a mortgage, deed of trust, contract, or other obligation by which a debt is secured when land is pledged as security for the payment thereof, together with the money represented by such debt, shall not be considered property subject to taxation; and further provided, that property used for free public libraries and free museums, growing crops, property used exclusively for public schools, and such as may belong to the United States, this state, or to any county, city and county, or municipal corporation within this state shall be exempt from taxation, except such lands and the improvements thereon located outside of the county, city and county or munic-

ipal corporation owning the same as were subject to taxation at the time of the acquisition of the same by said county, city and county or municipal corporation; provided, that no improvements of any character whatever constructed by any county, city and county or municipal corporation shall be subject to taxation. All lands or improvements thereon, belonging to any county, city and county or municipal corporation, not exempt from taxation, shall be assessed by the assessor of the county, city and county or municipal corporation in which said lands or improvements are located, and said assessment shall be subject to review, equalization and adjustment by the state board of equalization. The legislature may provide, except in the case of credits secured by mortgage or trust deed, for a deduction from credits of debts due to bona fide residents of this state.

Section 1, article XIII, proposed to be amended, now reads as follows:

#### EXISTING LAW.

Section 1. All property in the state except as otherwise in this constitution provided, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law, or as hereinafter provided. The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership; provided, that a mortgage, deed of trust, contract, or other obligation by which a debt is secured when land is pledged as security for the payment thereof, together with the money represented by such debt, shall not be considered property subject to taxation; and further provided, that property used for free public libraries and free museums, growing crops, property used exclusively for public schools, and such as may belong to the United States, this state, or to any county or municipal corporation within this state shall be exempt from taxation. The legislature may provide, except in the case of credits secured by mortgage or trust deed, for a deduction from credits of debts due to bona fide residents of this state.

#### ARGUMENT IN FAVOR OF ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 6.

It provides for the taxation of such lands and the improvements thereon located outside the county, city and county or municipal corporation owning the same, as were subject to taxation at the time of the acquisition of the same by said county, city and county or municipal corporation; provided, that no improvements of any character whatever constructed by any county, city and county or municipal corporation shall be subject to taxation. All lands or improvements thereon, belonging to any county, city and county or municipal corporation, not exempt from taxation, shall be assessed by the assessor of the county, city and county or municipal corporation in which said lands or improvements are located, and said assessment shall be subject to review, equalization and adjustment by the state board of equalization.

This amendment does not seek to hinder in any way the development of enterprises by and for the benefit of counties or municipalities, in any part of the state, but to protect from loss those

counties into which they may enter for such purposes. A concrete illustration is afforded by the counties of Tuolumne, Mono and Inyo. In furtherance of obtaining a large water supply, for municipal and other uses, the purchase by San Francisco in Tuolumne county aggregated over \$1,000,000.00 worth of property. Los Angeles, in Owens river valley, acquired by purchase over 75,000 acres of land, amounting to over one sixth of the assessed value, and more than one fourth of the located agricultural land of the county. The city of Los Angeles has acquired large holdings in Mono county. Before such acquisition the area was tax-paying property. Since the acquisition in Inyo county the city of Los Angeles has continued to pay taxes, as a matter of justice, but its payments are accompanied by protests, in order to preserve to it the right of refusal to pay which many contend that it has under the constitutional provision as it stands at present, and that it might sustain in case of legal contest. While not abandoning any right from a technical standpoint, the city recognizes the justice of the contention upon which this amendment is based.

The city of San Francisco refuses absolutely to pay one dollar in taxes in Tuolumne county on their \$1,000,000.00 worth of property, contending they are exempt from such a tax by a constitutional provision.

The proposed amendment does not penalize improvements that the invading corporation may make. On the contrary, it expressly limits taxation to the property as acquired and excludes any improvements thereafter made.

It further gives to the owning municipality or county, assessed under its authority, the same protection against unjust assessment that other taxpayers enjoy, by making such assessments subject to competent official review.

It would be possible for an acquiring city or county to virtually destroy the government of a small county by acquiring, for one purpose or another, for municipal use, the substance of its revenue-yielding property. That such a result would be improbable and extreme does not alter the fact of its possibility. In the Inyo county instance, refusal by the city of Los Angeles to pay taxes upon real estate which has heretofore borne its due share of the expense of the county government would be a serious matter, either curtailing the county's welfare or imposing a heavier burden on other property. With such a result possible to a fractional extent, it would be equally possible to the fullest extent that the investing city might see fit to go.

It is to remedy such a condition that this amendment was proposed. Uncertainty on the matter should be removed by a legal assurance that while natural resources within one county may be directly used for the upbuilding of another, lands or other property already upon the invaded county's tax roll shall continue to bear its share of maintaining the local government.

It is hoped, therefore, that the justice of this amendment will insure for it the approval of the people of the state.

GEO. A. CLARK,  
Assemblyman Forty-seventh District.